

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

16-M-1047

ROBERTO LEON,

Defendant.

**MOTION TO ADJOURN THE RULE 48(b) DISMISSAL DATE AND FOR
ADDITIONAL EXCLUSION OF TIME UNDER THE SPEEDY TRIAL ACT**

THE UNITED STATES OF AMERICA, by and through its attorneys, William J. Hochul, Jr., United States Attorney, and Brendan T. Cullinane, Assistant United States Attorney, of counsel, hereby moves the Court for an adjournment of the Rule 48(b) dismissal date set for October 20, 2016, and for additional exclusion of time under the Speedy Trial Act. Counsel for the defendant, Michael M. Blotnik, consents to and joins in the relief sought herein.

DATED: Buffalo, New York, October 18, 2016.

WILLIAM J. HOCHUL, JR.
United States Attorney

BY: s/BRENDAN T. CULLINANE
Assistant United States Attorney
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AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

BRENDAN T. CULLINANE, being duly sworn, deposes and states:

1. I am an Assistant United States Attorney for the Western District of New York and assigned to my office's case file in the above captioned matter. This affidavit is submitted in support of the government's motion to adjourn the Rule 48(b) dismissal set for October 20, 2016, at 12:00 p.m. and for additional exclusion of time under the Speedy Trial Act. The adjournment will also give counsel for the defendant, Michael M. Blotnik, sufficient time to provide the effective assistance of counsel.

2. On June 22, 2016, the parties appeared before the Court for the continued detention hearing in this matter. See Docket No. 6. At the conclusion of the continued

detention hearing, the Court granted the parties request to schedule a Rule 48(b) date of August 22, 2016, in this matter. Id.

3. On August 19, 2016, the government, with the consent of counsel for the defendant, filed a motion to adjourn the Rule 48(b) date. See Docket No. 9. On August 22, 2016, the Court granted the motion and scheduled October 20, 2016, as the Rule 48(b) date in this matter. See Docket No. 10.

4. Since the date of the continued detention hearing, the government has provided voluntary discovery to defense counsel. The parties have also discussed a plea resolution in this matter and will continue to discuss a resolution.

5. The government, with the consent of the defendant's counsel, now moves to adjourn the Rule 48(b) dismissal date for a period of approximately thirty (30) days to permit the parties to continue pre-indictment plea negotiations. By this affidavit, the government, with the consent of counsel for the defendant, moves for an exclusion of speedy trial time from and including October 20, 2016, to and including November 18, 2016, pursuant to Title 18, United States Code, Sections 3161(h)(7)(A) and (h)(7)(B)(iv), and Rule 5.1 of the Federal Rules of Criminal Procedure.

6. The defendant's interest in continuity of effective assistance of counsel, all while continuing plea negotiations with the government and reviewing voluntary discovery, outweighs the interest of the defendant in a speedy trial. Based on the foregoing

representations, the exclusion of time in this matter is in the interest of justice and not contrary to the interests of the public and the defendants in a speedy trial pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (h)(7)(B)(iv), and Rule 5.1 of the Federal Rules of Criminal Procedure.

WHEREFORE, for all of the foregoing reasons, it is respectfully requested that the Rule 48(b) dismissal date be set for November 18, 2016, and that the time from and including October 20, 2016, to and including November 18, 2016, be excluded from the Speedy Trial Act.

s/BRENDAN T. CULLINANE
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138 Delaware Avenue
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Subscribed and sworn to before me

this 18th day of October, 2016.

s/JENNIFER PETRUSO, NOTARY PUBLIC
State of New York, County of Erie
My commission expires on March 24, 2020.